IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2691 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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M P EDUCATION SOCIETY & 7 - Petitioner(s)

Versus

JOINT CHARITY COMMISSIONER & 6 - Respondent(s)

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Appearance :

MR NILESH A PANDYA for Petitioner(s) : 1 - 8.
RULE SERVED for Respondent(s) : 1 - 2, 5, 7,
RULE UNSERVED for Respondent(s) : 3 - 4, 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 13/01/2006

ORAL JUDGMENT

1.By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioners have challenged the legality and validity of the interim order passed by the learned Joint Charity Commissioner,

Vadodara dated 6.4.97 passed below Exh.4 in Appeal No.13/98 by which during the pendency of the Appeal against the judgment and order dated 30.5.98 passed by the learned Assistant Charity Commissioner, Vadodara passed in Change Report No.59/98, the learned Joint Charity Commissioner has stayed the said order till final disposal of the Appeal.

2. It was the contention on behalf of the petitioners that the respondent No.3-contesting party was not served as he was in USA and therefore, he was not even appearing before the appellate authority i.e. learned Joint Charity Commissioner, Vadodara before whom an Appeal No.13/98 is pending. It was also contended on behalf of the petitioners that by interim stay order dated 6.4.97 granted by the learned Joint Charity Commissioner, Vadodara below Exh.4 in the above numbered appeal, the respondent No.3 continues to be the president of the trust but in his absence, other trustees are not able to manage the affairs of the trust without the person holding the post of president on regular basis. Considering the above, while admitting the present Special Civil Application, this Court granted interim relief in terms of paragraph 18(B) until further orders

meaning thereby, the order passed below Exh.4 passed in Appeal No.13/98 by the learned Joint Charity Commissioner, Vadoara came to be stayed and the said interim relief is continued till date. It appears from the record that even the appeal is also pending before the learned Joint Charity Commissioner, Vadodara. Under the circumstances, without expressing any opinion on the merits of the case, the learned Joint Charity Commissioner, Vadodara is directed to decide and dispose of the Appeal No.13/98 in accordance with law and on merits which is filed before him challenging the judgment and order dated 30.5.98 passed by the learned Assistant Charity Commissioner, Vadoara passed in Change Report No.59/98 as early as possible preferably within a period of 6 months from the date of receipt of this order and until then the interim relief granted earlier by this Court is directed to be continued.

3. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.